

A.J. Elkins

From: Salgado, Suzanne <SSalgado@wc.com>
Sent: Tuesday, January 28, 2020 6:14 PM
To: Omar Aboulhosn; Mike Fuller
Cc: Mainigi, Enu; sruby@baileyglasser.com; A.J. Elkins; Kearse, Anne; Wadhwani, Neelum
Subject: RE: Cabell County Commission v. AmerisourceBergen Drug Corporation, et al. 3:17-cv-01665

Magistrate Judge Aboulhosn and Counsel,

We appreciate having the opportunity to discuss these issues with everyone yesterday and look forward to working with one another. We write regarding our understanding of the issues covered yesterday and to provide the updates discussed.

Depositions

As to the four requested depositions, we have worked to obtain the dates by which we can complete custodial productions of these individuals. Based on our understanding from Mr. Fuller at the hearing that we will be applying the same search terms here as those run in Track 1 (adjusting of course to substitute the customer IDs of our Cabell/Huntington customers rather than those in Summit/Cuyahoga Counties), we have been told we can complete the production of these four custodial files by February 28. We will complete the review as quickly as possible and produce the documents on a rolling basis, but after consultation with our review team this is the earliest date by which we can commit to produce these thousands of documents. Per Mr. Fuller's email we are open to discussion regarding additional search terms, but note that the addition of terms may affect the anticipated timing of the productions. We also have confirmed that we will be able to produce previous transcripts of these witnesses from other state litigations by next Wednesday, February 5. As discussed, we are also working to obtain availability from these witnesses for dates for their respective depositions after their files have been produced, and we will promptly follow up with Plaintiffs on this when we hear back from the witnesses.

Custodian list and searches

Regarding custodians, as discussed we are sending to Plaintiffs today our proposed list of custodians and are happy to set up time to discuss any issues. We have already begun running the agreed-upon search terms across these custodians and will produce documents from these custodians on a rolling basis (in addition to the many non-custodial documents we have already produced and will continue to produce), starting with the files of those individuals whose depositions have been requested.

Specific discovery requests

As to discovery responses 2, 10, and 11, we agree that we will supplement our response to request number 2 to reiterate what we explained in yesterday's discussion--that we have already provided the information we have regarding dates of Cardinal Health's SOMS policies and procedures, and that we will of course supplement if any additional information is discovered in the future. As to discovery responses 10 and 11, as discussed we are making reasonable inquiries for responsive documents in addition to running search terms that may yield responsive documents. We will follow up 14 days from yesterday's hearing to let Plaintiffs know if we identify any more information in response to these requests, and will of course supplement if relevant documents are identified in the future.

Thank you for your attention to these matters.

Best,
Suzanne

From: Omar Aboulhosn <Omar_Aboulhosn@wvsd.uscourts.gov>
Sent: Tuesday, January 28, 2020 6:07 AM
To: Mike Fuller <Mike@mchughfuller.com>
Cc: Salgado, Suzanne <SSalgado@wc.com>; Mainigi, Enu <EMainigi@wc.com>; sruby@baileyglasser.com; A.J. Elkins <AJ@mchughfuller.com>; Kearse, Anne <akearse@motleyrice.com>
Subject: Re: Cabell County Commission v. AmerisourceBergen Drug Corporation, et al. 3:17-cv-01665

Thank you Mr. Fuller, this is perfect. I think it is very helpful to have this.

Judge Omar J. Aboulhosn
US Magistrate Judge
United States District Court
Southern District of WV
Omar_Aboulhosn@wvsd.uscourts.gov
Cell: 304-320-4346
Sent from my iPad

On Jan 28, 2020, at 2:31 AM, Mike Fuller <Mike@mchughfuller.com> wrote:

Judge and Counsel,

Wanted to thank everyone for taking to time today to discuss the issues pending in Plaintiffs' Motion to Compel that was filed against Cardinal in this matter. As a result of those conversations it appears, as discussed today, that Plaintiffs' motion has or will become moot. To ensure that we are all on the same page as to what was worked out and agreed to we are providing the below summation.

As to depositions of Mone, Barber, Cameron, and Schrebe;

- By end of the day today, January 28th, Cardinal will provide further information as to the completion date for WV specific supplementation of custodial files for the first three deponents listed and Schrebe's complete custodial file.
- Dates for the production of transcripts of any of the requested witnesses.
- Will also be contacting the witnesses to provide dates for their respective depositions in this matter, understanding the your Honor indicated these depositions should look to be set the end of February or into the first part of March.

As to Custodian;

- Cardinal is going to provide the proposed custodians by name today, January 28th. We presume these custodians will cover the areas requested in our letter to Cardinal. We suggest setting a conference call just between the parties later this week to hammer out any issues as to the proposed custodians.
- As to the search terms to be used with these custodians, to move this process expeditiously, Plaintiffs have agreed to use the search terms from CT1. We believe there will need to be slight modifications for the CT2 specifics but that should be easily accomplished.

As to Discovery Requests #2, #10, & #11;

- #2: as to Cardinal's SOMS standard operating procedures (SOP) and providing information related to the timeframe of each. Cardinal will supplement their response to indicate that other than the dates on the policies and the testimony of the 30b witness and written 30b responses it

cannot provide any additional information on the timeframe of used or chronological order of the produced SOPs.

- #10 & #11: Cardinal will do a search for responsive documents to these request, not relying on custodians and search terms, and will supplement their responses to these requests within 14 days of yesterday's hearing.

Your Honor, if the Court would prefer not to have an informal confirmation of the agreements reached today such as this, we apologize in advance. However, we have found that this seems to ensure that everyone is on the same page as to what needs to be done and when thing are due.

Thank you all,
Mike

From: Omar Aboulhosn <Omar_Aboulhosn@wvsc.uscourts.gov>

Sent: Monday, January 27, 2020 9:30 AM

To: Steven R. Ruby <sruby@baileyglasser.com>; Mike Fuller <Mike@mchughfuller.com>

Cc: Tammy Davis <Tammy_Davis@wvsc.uscourts.gov>; Amy Quezon <amy@mchughfuller.com>; amajestro@powellmajestro.com; alamb@archielamb.com; bert@greeneketchum.com; bleblanc@baronbudd.com; dbailey@levinlaw.com; jgaddy@levinlaw.com; lbaughman@martinbaughman.com; ldunning@levinlaw.com; mpifko@baronbudd.com; mikewoelfel3@gmail.com; nmcwilliams@levinlaw.com; ppoerschke@levinlaw.com; paul@greeneketchum.com; pmougey@levinlaw.com; rtellis@baronbudd.com; rbudd@baronbudd.com; asaucer@baronbudd.com; aemch@jacksonkelly.com; esitarchuk_morganlewis.com <esitarchuk@morganlewis.com>; gcallas@jacksonkelly.com; meredith.auten@morganlewis.com; smcclore@reedsmith.com; schwendeman@theisenbrock.com; cgoodwin@fbtlaw.com; jward@fbtlaw.com; MarkCheffo@quinnemanuel.com; richardschirtzer@quinnemanuel.com; williamburck@quinnemanuel.com; Brian Glasser <BGlasser@baileyglasser.com>; ekessler@jonesday.com; emainigi@wc.com; lheard@wc.com; jrwooley@jonesday.com; spyser@wc.com; Raymond S. Franks II <rfranks@baileyglasser.com>; wjarceneaux@lewisglasser.com; amacia@spilmanlaw.com; jcrockett@spilmanlaw.com; mrhein@spilmanlaw.com; nlusk@spilmanlaw.com; fshere@bowlesrice.com; gstowers@bowlesrice.com; jreckart@bowlesrice.com; rharvey@bowlesrice.com; ghobart@cov.com; jholliday@flahertylegal.com; jwakefield@fsblaw.com; mhenov@cov.com; alex.turner@nelsonmullins.com; chris.smith@nelsonmullins.com; dean.barnhard@btlaw.com; lmackey@btlaw.com; marc.williams@nelsonmullins.com; Heather Kropac <Heather_Kropac@wvsc.uscourts.gov>; Tammy Davis <Tammy_Davis@wvsc.uscourts.gov>

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Counsel, immediately following Judge Faber's status hearing, I will be conducting an informal Video conference to discuss the pending motion to compel. Just FYI.

Thanks.

Omar J. Aboulhosn
United States Magistrate Judge
<[image005.jpg](#)>

From: Omar Aboulhosn

Sent: Monday, January 27, 2020 10:06 AM

To: Steven R. Ruby <sruby@baileyglasser.com>; Mike Fuller <Mike@mchughfuller.com>

Cc: Tammy Davis <Tammy_Davis@wvsc.uscourts.gov>; Amy Quezon <amy@mchughfuller.com>; amajestro@powellmajestro.com; alamb@archielamb.com; bert@greeneketchum.com;